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JUN 13 1997

Federal Communications Commission  
Office of Secretary

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
 )  
Advanced Television Systems )  
and Their Impact Upon the )  
Existing Television Broadcast )  
Service )

MM Docket No. 87-268

To: The Commission

**PETITION FOR RECONSIDERATION**

Landmark Arts, Inc. ("Landmark"), licensee of low power television Station WHRT-LP, Murfreesboro, Tennessee ("WHRT" or the "Station"), hereby submits this Petition for Reconsideration of the *Sixth Report and Order* in the above-referenced proceeding.<sup>1</sup> WHRT currently operates on Channel 27 in Murfreesboro, Tennessee. The digital Table of Allotments in the *Sixth Report and Order* allots Channel 27 for use by the licensee of the station operating in NTSC Channel 2 in Nashville, only about 30 miles from Murfreesboro. That allotment will definitely displace WHRT, and the substantial amount of local programming produced by the Station will be lost. WHRT is the only source of local television programming in Murfreesboro. The Commission must act to protect the interests of the local residents of Murfreesboro by reconsidering its allotment of digital Channel 27 to Nashville and allotting a different digital channel which would allow WHRT to continue to provide its valuable local programming to

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<sup>1</sup> *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, Sixth Report and Order*, MM Docket No. 87-168, FCC 97-115 (released April 21, 1997).

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Murfreesboro. Alternatively, if the Commission does not reconsider the Nashville allotment, it must afford WHRT an early opportunity to move to another channel, rather than requiring it to await the filing of a construction permit application by the Nashville station.

Landmark acquired on October 31, 1996. At the first window filing opportunity thereafter, Landmark filed an application to make major changes to improve coverage, including changing transmitter site, antenna height, and power in order to provide the daily local programming provided by the Station to a greater number of people in the Murfreesboro area.

Only two short days after the *Sixth Report and Order* was released, and after nearly a year of waiting for the Commission to act on the modification application, WHRT was issued a construction permit to make the proposed major changes.<sup>2</sup> The permit expires October 23, 1997. However, it is neither logistically practical nor economically prudent for the licensee to implement the authorized changes if the Station is certain to be displaced yet does not know when that may occur.

WHRT provides at least 21 hours per week of locally-produced, quality programming.<sup>3</sup> Since the day it bought the Station, Landmark has fought a tough uphill battle to preserve the availability of the Station's local and other programming for the residents of Murfreesboro. In an agreement finally reached lengthy negotiations with InterMedia Cable, WHRT gained access to the Murfreesboro area cable system on \_\_\_\_\_, 1997.<sup>4</sup> With the major changes recently

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<sup>2</sup> FCC File No. BPTTL-960514JG, issued April 23, 1997.

<sup>3</sup> See Programming Schedule attached as Exhibit A.

<sup>4</sup> WHRT does not have must-carry rights on cable because a full-power station is authorized to Murfreesboro. That station operates as a Nashville market station and does not provide the

authorized by the Commission, the Station will be able to expand its coverage and delivery of quality local programming to households that do not subscribe to cable. To avoid the loss of this local service, the Commission should allot a different digital channel to the Nashville station and allow WHRT to continue operating on Channel 27 at Murfreesboro.

Alternatively, if the Commission decides that the Nashville station should retain Channel 27 as its digital allotment, Landmark should be permitted to apply for authority to move to another channel *now*, not when the full power station eventually decides to begin its conversion to digital television by filing the requisite construction permit application. Forcing Landmark to wait until the Nashville station acts puts the timing of the fate of WHRT in the hands of an entity other than the licensee, which is both unfair to the licensee and harmful to the future of the Station. Landmark has invested much time, effort and extensive financial resources to improve the Station's operation and community standing and has been very successful thus far in its efforts. The Nashville station has absolutely no incentive to help WHRT in that improvement process by applying for its digital channel sooner rather than later, thereby allowing WHRT to seek authorization from the Commission to change its channel and upgrade the Station's facilities. WHRT's competitor should not have any control whatsoever over how the Station operates or chooses to improve itself in order to compete more effectively and better serve the residents in its viewing area. Thus, if the Commission will not prevent the displacement of WHRT by allotting a different digital channel to the Nashville station, it must at least allow Landmark to file immediately for authority to move its current operation to a different channel,

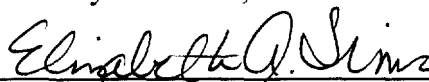
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local programming service for Murfreesboro available on WHRT.

instead of forcing the Station to forgo the benefits of a facilities upgrade which has already been authorized by the Commission and which will greatly benefit the residents of the Murfreesboro community and the surrounding area.

For the above reasons, Landmark respectfully requests that the Commission reconsider its decision in the *Sixth Report and Order* and modify the digital allotment table to prevent displacement of WHRT and loss of the Station's vital local service to the residents of Murfreesboro, Tennessee; or at a minimum, the Commission should allow WHRT to change channels immediately, prior to the expiration date of its major change construction permit.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Elizabeth A. Sims", written over a horizontal line.

Peter Tannenwald

Elizabeth A. Sims

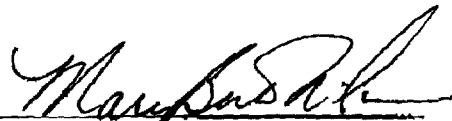
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1730 Rhode Island Avenue, N.W.  
Suite 200  
Washington, D.C. 20036-3101  
(202) 728-0400 (phone)  
(202) 728-0343 (fax)

Counsel for Landmark Arts, Inc.

June 13, 1997

**DECLARATION OF MARY BETH WILSON**

I, Mary Beth Wilson, CEO of Landmark Arts, Inc. ("Landmark"), licensee of Station WHRT-LP, Murfreesboro, Tennessee, and General Manager of that station, do hereby certify that I have read the foregoing "Petition for Reconsideration" filed by Landmark on this date and that all the facts stated therein are true and correct to the best of my knowledge, information and belief.

  
Mary Beth Wilson

Date: June 13, 1997

## **EXHIBIT A**



MURFREESBORO'S TELEVISION STATION  
UHF CHANNEL 27 / CABLE 45  
Schedule: Week of June 15-21, 1997

TIME	SUN	MON	TUE	WED	THU	FRI	SAT
6:00-6:30	Bethany Hour	Cartoon Classics	Cartoon Classics	Cartoon Classics	Cartoon Classics	Cartoon Classics	Raceline
6:30-7:00	Bible Answers	M'boro Night & Day	M'boro Night & Day	M'boro Night & Day	M'boro Night & Day	M'boro Night & Day	Amer. Adventurer
7:00-7:30	Awakening	M'boro Night & Day	M'boro Night & Day	M'boro Night & Day	M'boro Night & Day	M'boro Night & Day	Paid Program
7:30-8:00	Paid Program	Cartoon Carnival	Cartoon Carnival	Cartoon Carnival	Cartoon Carnival	Cartoon Carnival	Fantasy Baseball
8:00-8:30	Texas Angler	Backstage Pass	Backstage Pass	Backstage Pass	Backstage Pass	Backstage Pass	Amer. Home Repair
8:30-9:00	Exploring Outdoors	Paid Program	Paid Program	Paid Program	Paid Program	Paid Program	Plant Groom
9:00-9:30	Southern Outdoors	Movie:	Movie:	Movie:	Movie:	Movie:	Today's Health
9:30-10:00	Good Fishing	"Road	"God's	"A Boy	"39 Steps"	"Angel	Get Fit
10:00-10:30	Larry Nixon Fishing	to	Gun"	&	"	with the	Dr. Jim's Pets
10:30-11:00	Fishing University	Bali"	"	His Dog"	"	Trumpet"	Today's Environ.
11:00-11:30	Outdoors	N-1 Showcase:	N-1 Showcase:	N-1 Showcase:	N-1 Showcase:	N-1 Showcase:	Paid Program
11:30-12:00	Paid Program	"Impact"	"Scarlett	"Smash	"Overrun"	"Groom	Week in Baseball
12:00-12:30	Music Row Profiles	"	Street"	Up"	"	Wore	Nissan Racing
12:30-1:00	Soundcheck	"	"	"	"	Spurs"	ψ E.N.T.
1:00-1:30	Cincinnati Reds	Lonely Chef	Lonely Chef	Lonely Chef	Lonely Chef	Lonely Chef	USWA
1:30-2:00	vs.	4-Star Playhouse	R. Sherman Show	Fishmasters	Backstage Pass	Flightline	Wrestling
2:00-2:30	Chicago White Sox	Singles Talk	Our House	Sportsman S'case	Video Maker	Discover America	ψ LaVergne
2:30-3:00	"	"	Designer's L'scape	Caribbean Diving	Our House	Flights of Fantasy	ψ High School
3:00-3:30	"	Music	Music	Music	Music	Music	ψ Graduation
3:30-4:00	"	On	On	On	On	On	ψ "
4:00-4:30	*MTSU Sub.Abuse	Demand	Demand	Demand	Demand	Demand	Country-
4:30-5:00	*MTSU Sub.Abuse	"	"	"	"	"	Music Countdown
5:00-5:30	*MTSU Sub.Abuse	"	"	"	"	"	Scoreboard Cen.
5:30-6:00	*MTSU Sub.Abuse	* M'boro News	* M'boro News	* Dr. McDougal	* E.N.T.	* News	"
6:00-6:30	*MTSU Liv. Health	Cincinnati Reds	Cincinnati Reds	Lifestyle Magazine	Lifestyle Magazine	Lifestyle Magazine	Extreme Wrestling
6:30-7:00	*MTSU Liv. Health	vs.	vs.	M'boro News	* M'boro News	Cincinnati Reds	"
7:00-7:30	*MTSU Liv. Health	Cleveland Indians	Cleveland Indians	Star Cinema:	Fire Rescue	vs.	Prime Boxing
7:30-8:00	*MTSU Liv. Health	"	"	"Charade"	Talk of the Town	St. Louis Cardinals	"
8:00-8:30	*1st Baptist Church	"	"	"	Dr. McDougal	"	"
8:30-9:00	* "	"	"	"	Amer. Adventurer	"	"
9:00-9:30	* N. Boulevard	Scoreboard Cen.	Scoreboard Cen.	Scoreboard Cen.	Scoreboard Cen.	Scoreboard Cen.	Scoreboard Cen.
9:30-10:00	*Church of Christ	* M'boro News	* M'boro News	* M'boro News	* M'boro News	* M'boro News	"
10:00-10:30	Net Talk Live	M'boro Night & Day	M'boro Night & Day	M'boro Night & Day	M'boro Night & Day	M'boro Night & Day	Power Play
10:30-11:00	"	Newsport Journal	Newsport Journal	Newsport Journal	Fantasy Baseball	Motor Sports	"
11:00-11:30	"	Scoreboard Cen.	Scoreboard Cen.	Scoreboard Cen.	Scoreboard Cen.	Scoreboard Cen.	Total Entertainment
11:30-12:00	"	"	"	"	"	"	Paid Program
12:00-12:30	"	Paid Program	Paid Program	Paid Program	Paid Program	Paid Program	Scoreboard Cen.
12:30-1:00	Fast Track Fame	Burns & Allen	Love That Bob	"	Racket Squad	Lock Up	"
1:00-1:30	TMZ Countdown	Movie	Movie:	Movie:	Movie:	Movie:	Movie:
1:30-2:00	"	"Beat	"Sheep	"Hercules"	"Women	"Catherine	"Trail
2:00-2:30	"	the	has	"	without	the	Dust"
2:30-3:00	"	Devil"	Five Legs"	"	Names"	Great"	Paid Program
3:00-3:30	Movie:	Paid Program	Paid Program	Paid Program	Paid Program	Paid Program	Movie:
3:30-4:00	"Boys from	Movie:	Movie:	Movie	Movie:	Movie:	"Paris
4:00-4:30	Brooklyn"	"Bells of	"Roll on	"The Buckskin	"Trail Dust"	"Dude	Express"
4:30-5:00	Soundcheck	San Fernando"	Texas Moon"	Lady"	Children's Room	Ranger"	"
5:00-5:30	Paid Program	Paid Program	Paid Program	Paid Program	Paid Program	Paid Program	Music Row Profiles
5:30-6:00	Bethany Hour	Life in the Word	Life in the Word	Life in the Word	Life in the Word	Life in the Word	Paid Program

Locally  
produced

\* Locally Originated Programming  
Current Rates: \$15-\$20

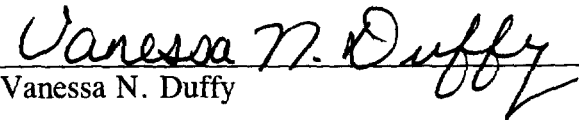
\* N-1 Network Programming  
\$8-\$10

\* A1 Network Programming  
\$8-\$10

CERTIFICATE OF SERVICE

I, Vanessa N. Duffy, hereby certify that on this 13th day of June, 1997, a copy of the foregoing "Petition for Reconsideration" has been served by U.S. first-class mail, postage prepaid, upon the following:

Mike Sechrist, General Manager  
Station WKRN-TV  
P.O. Box 2  
Nashville, TN 37202

  
Vanessa N. Duffy